

REMARKS

Claims 2-6 and 9-13 were pending in the application.

Claim 13 is amended to include the limitations of claim 2 and the limitation that the insulation is sufficient to prevent the second handle grip from getting hot during use, as described in paragraph [0012] of the published application.

Claim 13 is also amended to recite a single cold air combination switch located only on the housing portion and between said first handle grip (8) and said barrel portion (5). Support for the amendment to claim 13 may be found in the claims as originally filed and in FIGs. 7, 8, and 9 of the specification as originally filed.

New claim 14 is added and corresponds to original claim 12 written in independent form. Claim 2 is cancelled without prejudice.

Claims 3-6 and 9-14 are now pending.

No new matter is added.

Claims Rejections 35 U.S.C. 102

Claims 13 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Springer (US 4,232,454). The rejection has been carefully considered.

The rejection asserts that the Springer patent discloses a barrel portion (110 in FIG. 2) that is "*is inherently capable of being used as a second handle grip and where this language is given little weight because it is functional language and the apparatus claims limitations read on the prior art.*" Rejected claim 10 recites "*wherein...said barrel*

portion (5) embodied as a second handle grip (9)." It is clear from the Springer patent, however, that the barrel portion disclosed would not have been recognized as inherently having a handle function by one of skill in the art. The barrel would have been expected to be hot because it is not insulated from the heating elements in any way and the air flow can be restricted, which would increase the temperature of the barrel even more.

The rejection also asserts that the cold air combination switch disclosed by Springer is located on the housing portion at the angle formed by the first handle grip and the barrel portion and is configured to be actuated using a single finger of a hand on either the handle grip or the barrel grip. The Examiner qualifies this assertion by claiming that the language in the rejected claim is given little patentable weight and that the operation of the switch using one finger is "*implicit*." The Examiner does not support this assertion with any reasoned statement and, based upon the view shown in Springer below FIG. 2 and labeled FIG. 1, it would be difficult, at best, to operate the switch 117 when holding the drier by the barrel portion.

Despite the aforementioned flaws in the rejection, and solely for the purpose of advancing prosecution, claim 13 is amended to recite that the barrel portion is thermally insulated. Applicant argues that the amendment overcomes the anticipation rejection because Springer does not disclose a thermally insulated barrel portion.

In view of the foregoing arguments and the amendment to the claims, Applicant respectfully requests that the outstanding rejections of claims under 35 U.S.C. 102(b) be withdrawn.

Claims Rejections 35 U.S.C. 103

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Springer** (US 4,232,454) in view of **Gallone** (US 5,349,147). The rejection has been carefully considered.

Applicant argues that claim 11 is patentable over Springer in view of Gallone because neither of the cited references teaches or suggests the limitation of a barrel portion comprising a handle grip that is insulated from the heater. Claim 11 depends from claim 13. Claim 13, as amended, recites the limitation of a second handle grip located on the barrel portion that is sufficiently insulated from the heater to prevent the grip from getting hot.

Claims 13, 5, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Thaler** (US 5,727,331) in view of **Thaler** (US 4,711,988).

Claims 2-4 and 6 rejected under 35 U.S.C. 103(a) as being unpatentable over **Thaler** (US 5,727,331) in view of **Thaler** (US 4,711,988) and **Kaeriyama** (JP 03 009 703 A).

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Thaler** (US 5,727,331) in view of **Thaler** (US 4,711,988) and **Paulhus** (US 4,676,260).

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Thaler** (US 5,727,331) in view of **Thaler** (US 4,711,988) and **Gallone** (US 5,349,147).

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Thaler** (US 5,727,331) in view of **Thaler** (US 4,711,988) and **Berryman** (US 3,612,824).

The Examiner's rejections have been carefully considered.

I. Applicant argues that rejected claims are patentable over the cited references because the references, neither alone nor in combination, teach or suggest a single cold air combination switch.

All of the rejections above rely upon the assertion that Thaler '331 teaches a dryer comprising a cold air combination switch 120 configured to be actuated selectively from the first or second handle grip by direct contact between switch and one finger of a hand on either the first or second handle grip.

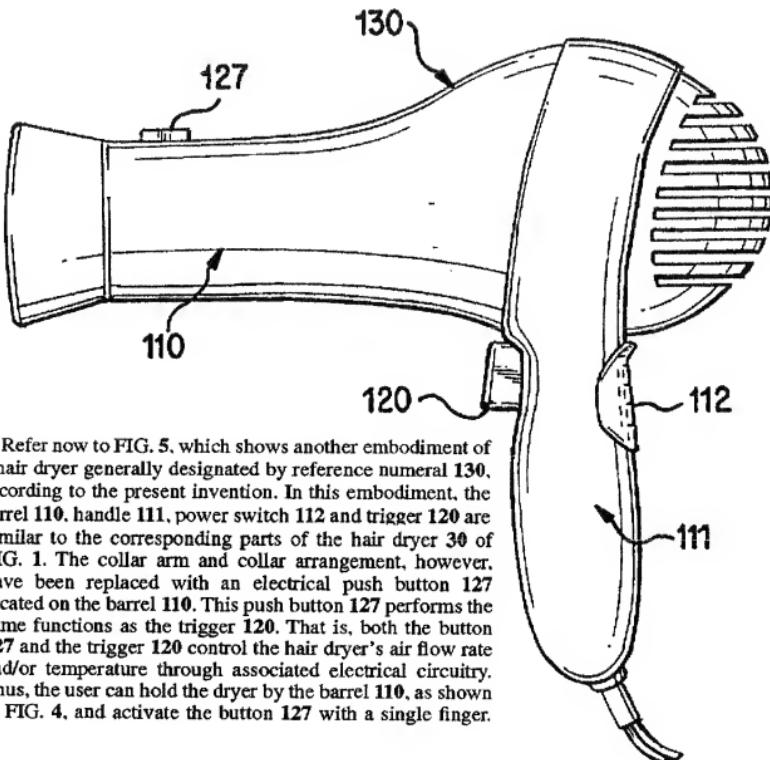
Thaler '331 and the present invention both provide a solution to the ergonomic problem encountered when holding a dryer alternately by the barrel and pistol grip of the dryer during. Unlike the present invention, the solution provided by Thaler '331 is based upon two cold-air combination switches or by allowing an operator holding the hair dryer by the barrel to actuate a conventionally placed cold-air combination trigger switch by way of a second switch mechanically coupled to the trigger switch. From Thaler '331:

A disadvantage of the known hair dryers is that they do not allow users to control air flow rate and temperature when holding the dryer in different positions, such as by either the handle or barrel. This requires that a user switch grips in the middle of drying hair to change the air flow rate or temperature. Alternately, the hand not holding the dryer must be used to change the air flow rate or temperature. This is not practical because the user's other hand is generally performing hair styling activities.

The present invention alleviates to a great extent these disadvantages by providing a hair dryer including more than one switch to control air flow rate or temperature. Each switch is located on a different portion of the hair dryer, allowing the user to select air flow rate or temperature when gripping the dryer in different ways. This allows an operator to control air flow rate or temperature with the hand holding the dryer without requiring him to hold the dryer in a particular manner.

Thaler explicitly states that the solution is "*providing a hair dryer including more than one switch to control air flow rate or temperature.*"

FIG. 5 in Thaler '331 and its corresponding description are presented below:



Refer now to FIG. 5, which shows another embodiment of a hair dryer generally designated by reference numeral 130, according to the present invention. In this embodiment, the barrel 110, handle 111, power switch 112 and trigger 120 are similar to the corresponding parts of the hair dryer 30 of FIG. 1. The collar arm and collar arrangement, however, have been replaced with an electrical push button 127 located on the barrel 110. This push button 127 performs the same functions as the trigger 120. That is, both the button 127 and the trigger 120 control the hair dryer's air flow rate and/or temperature through associated electrical circuitry. Thus, the user can hold the dryer by the barrel 110, as shown in FIG. 4, and activate the button 127 with a single finger.

There is no doubt with regard to the requirement for two separate switches. The collar arm in FIG. 1, which is mechanically coupled to trigger 20, is replaced by a push button 127 that performs the same function as the trigger 120. Push button 127 is to be used when the dryer is held by the barrel 110 and trigger 120 is to be used when the dryer is held by the handle 111. Thaler '331 leaves no room for an alternative interpretation, as asserted in the rejection, in which a user grips the barrel and actuates trigger 20 or 120, as evidenced by FIG. 4 and the explicit directions for using the second switch 24 or 127.

The invention recited in present claim 13 provides an altogether different solution to the same ergonomic problem addressed by Thaler '331. Claim 13 recited a dryer comprising a (i.e. single) switch that is configured to be actuated by a single finger of a hand holding the dryer by either the barrel or the handle. Contrary to the Examiner's assertion that the claim recites "functional language," the invention recited in claim 13 is structurally different from the dryer taught by Thaler '331 because Thaler always requires two cold air combination switches and claim 13 recites a (i.e. single) cold air combination switch configured in such a way that a second cold air combination switch is not needed. Present claim 13 is amended to recite the limitation of a single cold-air combination switch to further stress this structural distinction.

One of skill in the art could not reasonably interpret the language recited in claim 13 as encompassing a dryer comprising two cold air combination switches because the claim recites a single cold air combination switch.

II. Applicant argues that rejected claims are patentable over the cited references because the references, neither alone nor in combination, teach or suggest a housing between a handle grip and a barrel.

All of the rejections rely upon the assertion that Thaler '331 teaches a housing between a handle grip and a barrel.

Claim 13 recites hand held hair dryer comprising an electric fan located in a housing portion. The rejection cites structural element 130 in Thaler as a housing portion. Structural element 130 in FIG. 5 of Thaler is not identified in the specification of that patent. Structural element 30 is identified as the hair dryer itself in FIG. 1. Structural element 20 in FIG. 1 is identified as a trigger switch and structural element 120 is identified as a trigger switch in FIG. 5. Accordingly, it appears that the structural element 130 in FIG. 5, which is cited as a housing portion in the rejection, actually represents the dryer and not a housing. Therefore, the rejection does not establish that Thaler '331 teaches a housing portion. Applicant also argues that Thaler '988 does not

teach a housing between a handle grip and a barrel portion. Structural element 10 in Thaler '988 refers to the hair dryer and not a housing.

III. Applicant argues that rejected claims are patentable over the cited references because the references, neither alone nor in combination, teach or suggest a cold air combination switch located only on the housing between the handle grip and the barrel.

All of the rejections rely upon the assertion that Thaler '331 teaches a cold air combination switch located only on the housing between the handle grip and the barrel.

Claim 13, as amended, recites a cold air combination switch that is located only on the housing portion between the handle grip and the barrel portion of the dryer. The trigger switches 20 and 120 taught by Thaler are located on the handle 11 (column 2, line 50, and column 3, line 66 – column 4, line 2). The second switches are located on the barrel. All of the switches taught by Thaler '988 are located on a handle grip.

The rejections of claims 3, 4, 6, and 10-12 are argued based upon the failure of the cited references to teach or suggest the limitations recited in claim 13 as argued hereinabove.

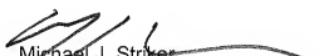
In view of the foregoing arguments, Applicant respectfully requests that the outstanding rejections of claims under 35 U.S.C. 103(a) be withdrawn.

Conclusion

The application in its amended state is believed to be in condition for allowance. Action to this end is courteously solicited. Should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call

in order to discuss appropriate claim language that will place the application into condition for allowance.

Respectfully Submitted,



Michael J. Striker
Attorney for Applicant
Reg. No.: 27233
103 East Neck Road
Huntington, New York 11743
631-549-4700